IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1894 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

MINOR SOLANKI SANDEEPSINH CHANDRASINH

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1894 of 1998

MR MANISH R BHATT for Petitioner No. 1-21

..... for Petitioner No. 22-40

MS MANISHA LAVKUMAR, AGP for Respondent No. 1

MR MC BHATT for Respondent No. 2

NOTICE SERVED BY DS for Respondent No. 3-5

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 22/11/2002

ORAL JUDGEMENT

The petitioners, 40 in number, had approached this Court for seeking directions against the Gujarat

Secondary Education Board to permit the petitioners to appear at the SSC Examination which was to be conducted in March, 1998.

2. The stand of the respondent-Board was that the school where the petitioners claim to have studied in 10th standard was not recognized by the Board. After hearing the learned counsel for the parties, this Court passed order dated 12.3.1998 appreciating that respondent No. 5 was running a school which was not recognized by the Secondary Education Board. However, in the peculiar facts of the case, by the said ad-interim order dated 12.3.1998, this Court directed the respondent-Board to accept the forms of the petitioner-students, if they are submitted through any other recognized school. This Court also issued certain directions to the District Education Officer, Baroda to look into all the schools and educational institutions managed by Vitthal Education Trust and other Trusts, wherein the trustees of Vitthal Education Trust are trustees and to check whether the said trustees were running schools which are not duly recognized. This Court also called upon the DEO to produce the list of institutions managed by such trustees. Pursuant to the said directions, the DEO, Baroda has submitted a report which does not bear any date, but is produced at Annexure "B" to the affidavit in reply dated 19.6.1998 of the Assistant Secretary, Gujarat Secondary Education Board.

3. A perusal of the said affidavit brings out the fact that Hardik Vidhyalay is only a primary school and not a secondary school. In the name of Hardik Vidhyalay some persons are committing fraud. It is also pointed out in the said report that criminal complaint being FIR No. II-72/97 is filed by the authorities against Subhashbhai Kantibhai Soni, respondent No. 5 herein for running the educational institution without obtaining recognition in accordance with law.

4. When the petition has come for hearing today, the learned counsel for the parties are not in a position to make any statement about the outcome of the said proceedings. However, considering the fact that the petitioners were already permitted to appear at the SSC examination way back in March, 1998 and their results have already been declared in the meantime, in view of passage of four years' time, no useful purpose will be served by dismissing the petition, but at the same time it is directed that the police authorities with whom the aforesaid criminal complaint being FIR No. II-72/97 was lodged at the Police Station in charge of Fatehgunj,

Baroda against Subhashbhai Kantibhai Soni shall investigate the same and take further proceedings in accordance with law. Respondent No.4-DEO, Baroda shall report compliance with this direction after producing a copy of this order before the concerned police authorities within two weeks from today. The compliance report shall be filed by 5.12.2002.

5. The petition is accordingly disposed of in terms of the aforesaid directions.

Rule is discharged with no order as to costs.

(M.S. Shah, J.)

sundar/-